REMARKS

The rejections presented in the Office Action dated December 23, 2003 have been considered. Claims 1-15 remain pending in the application. Reconsideration and allowance of the application are respectfully requested.

Claims 1 and 15 are amended with limitations from claim 12, and claims 11 and 12 are canceled without prejudice.

New claims 16-27 are added to claim the invention in alternative language.

The Office Action offers interpretations of various terms in the claims. In regards to the meanings of, *symbol table* and *program lookup table*, these are not thought to be inherent parts of a compiler because the meaning of "part of" is not clear. It is generally understood, however, that a compiler may generate a symbol table and a procedure lookup table in association with the generated executable code. Additionally, the claims reference a *procedure* lookup table rather than a *program* lookup table. With these qualifications, the interpretations are thought to be acceptable for purposes of examination of the claims.

The Office Action fails to show that claims 1-10 and 13-15 are anticipated by the commercial product **Borland Profiler** (hereinafter "Borland") under 35 USC § 102(a, b, e). The rejection is respectfully traversed because the Office Action fails to show that all the limitations of the claims are taught by Borland. However, the rejection is now moot because claims 1 and 14 are amended to include limitations from claim 12.

It should also be noted that the Office Action rejects claim 4 without citing any teaching from Borland of the claim limitations. For example, the limitations include reading entry points of initializer and deinitializer functions in dynamic load modules. However, no cited teaching of Borland teaches or suggests these limitations. If the rejection is maintained, further explanation is respectfully requested.

The Office Action fails to show that claims 11 and 12 are unpatentable under 35 USC §103(a) over Borland. The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, and fails to provide a proper motivation for modifying the teachings of Borland. As indicated above, claim 11 is canceled, and claim 1 now includes the limitations of claim 12. The limitations of claim 12, now in claim 1 are not shown to be suggested by Borland.

The Office Action reasons:

> Since, stub procedures are short it would be obvious to one of ordinary skill in the art at the time of invention to eliminate stub procedures because a program stub does not perform instructions other than the overhead call and the return. Thus, the profiler information would be more accurate on the part of the program that are performing.

This reasoning does not establish *prima facie* obviousness because it is based on hindsight.

This alleged motivation is improper because it uses the present invention as the reason to support the modification to Borland. The reasons supporting the combination must come from the prior art, not from the invention itself. In view of this error, this alleged support cannot be considered "evidence" in support of a suggestion, teaching, or motivation to combine the asserted references. Because the Office Action fails to present evidence in support of a motivation for modifying Borland, Applicant respectfully submits that a *prima facie* case of obviousness has not been presented and the rejection of claim 12 (now in 1) under 35 U.S.C. §103 should be withdrawn.

Withdrawal of the rejection and reconsideration of the claims are respectfully requested in view of the remarks set forth above.

Respectfully submitted,

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